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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-187669

**DATE:** November 8, 1976

**MATTER OF:** ABC Services, Inc.,

**DIGEST:**

Protest against decision to make award of contract to Small Business Administration under Section 8(a) of Small Business Act is denied where record fails to indicate abuse of administrative discretion.

ABC Services, Inc. protests a decision by the General Services Administration (GSA) to set aside custodial services contract No. 02B-18,346-01(NEG) under Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1970). The protester contends that GSA led it to believe that the procurement would be solicited on a competitive basis, without regard to the special considerations attaching to qualification as an 8(a) firm. The protester did not apply for consideration under the Small Business Administration's 8(a) program for this requirement.

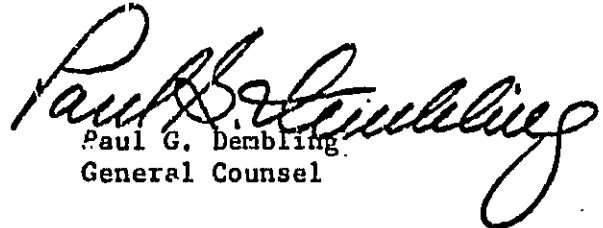
Section 8(a) empowers the SBA to enter into contracts with any Government agency having procurement powers, and the contracting officer of such agency is authorized "in his discretion" to let the contract to SBA "upon such terms and conditions" as may be agreed upon between SBA and the procuring agency. 53 Comp. Gen. 143 (1973). Under regulations issued pursuant to the above statutory authority, the SBA has determined that firms which are owned or controlled by economically or socially disadvantaged persons should be the beneficiaries of the 8(a) program. 13 C.F.R. § 124.8-1(a) (1976). We have recognized that the determination to initiate a set-aside under section 8(a) and to dispense with competition is a matter within the discretion of the SBA and the contracting agency. See Eastern Tunneling Corp., B-183613, October 9, 1975, 75-2 CPD 218, and the cases cited therein.

The record supports the protester's contention that the GSA had advised it as early as June 1975 that competition for the contract would be open to both small and large business concerns. Nevertheless, we are unaware of any requirement that a contracting agency

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notify firms who would qualify as prospective offerors under a nonrestrictive procurement of an intention to proceed with an award to the SBA in accordance with the provisions of the Small Business Act. Moreover such procurements are not required to be publicized in the Commerce Business Daily "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards." Armed Services Procurement Regulation § 1-1003.1(c)(vi). In the absence of evidence to indicate that the determination to set aside the procurement was an abuse of administrative discretion, we have no basis for objecting to a Section 8(a) award. See W.E. Yoder, Inc., P-184844, February 2, 1976, 76-1 CPD 70.

Consequently, the protest is denied.

  
Paul G. Dembling  
General Counsel